

ORDINANCE NO. 172

AN ORDINANCE OF THE CITY OF MARVELL, PERTAINING
TO TREE PLANTING AND MAINTENANCE
WITHIN THE CORPORATE LIMITS
OF THE CITY OF MARVELL.

Whereas, the City of Marvell has deemed it necessary to enforce this ordinance pertaining to tree planting and maintenance within the corporate limits of the City of Marvell.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARVELL, ARKNASAS.

SECTION 1. *Definitions.*

Street Trees: "Street Trees" are herein defined as trees, shrubs, bushes, and all other woody vegetation on land lying between property lines on either side of all streets, avenues, or ways within the City.

Park Trees: "Park Trees" are herein defined as trees, shrubs, bushes, and all other woody vegetation in public parks having individual names, and all areas owned by the City, or to which the public has free access as a park.

Section 2. *Creation and Establishment of a City Tree Board.* There is hereby created and established a City Tree Board for the City of Marvell, Arkansas, which shall consist of five members, citizens and residents of this city, who shall be appointed by the mayor with the approval of the city council.

Section 3. *Term of Office.* The term of the five persons to be appointed by the mayor shall be three years except that the term of two of the members appointed to the first board shall be for one year and the term of the two members appointed to the first board shall be for two years. In the event that a vacancy shall occur during the term of any member, his successor shall be appointed for the unexpired portion of the term.

Section 4. *Compensation.* Members of the board shall serve without compensation.

Section 5. *Duties and Responsibilities.* It shall be the responsibility of the Board to study, investigate, council and develop and/or update annually to the City Council and upon their acceptance and approval shall constitute the official comprehensive city tree plan for the City of Marvell, Arkansas. The Board, when requested by the City Council, shall consider, investigate, make finding, report and recommend upon any special matter of question coming within the scope of its work.

Section 6. *Operation.* The Board shall choose its own officers, make its own rules and regulations and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business.

Section 7. *Street Tree Species to be Planted.* The following list constitutes the official Street Tree species for Marvell, Arkansas: Red Maple, Water Oak, and Crepe Myrtle. No species other than those included in this list may be planted as Street Trees without written permission of the City Tree Board.

Section 8. *Spacing.* The spacing of Street Trees will be in accordance with the three species size classes listed in Section 7 of this ordinance, and not trees may be planted closer together than the following: Small trees, 30 feet; Medium trees, 40 feet; and Large trees, 50 feet,

except in special planting designed or approved by a landscape architect, county forester and City Tree Board.

Section 9. *Distance from Curb and Sidewalk.* The distance trees may be planted from curbs or curb lines and sidewalks will be in accordance with the three species size classes listed in Section 7 of this ordinance, and no trees may be planted closer to any curb or sidewalk than the following: Small trees, 2 feet; Medium trees, 3 feet; and Large trees, 4 feet.

Section 10. *Distance from Street Corners and Fireplugs.* No Street Tree shall be planted closer than 35 feet of any street corner, measured from the point of nearest intersection curbs or curb lines unless approved by the City Tree Board. No Street Trees shall be planted closer than 10 feet of any fireplug. Trees planted prior to this ordinance will not be affected unless proven to be a hazard to the general public as set in Section 12.

Section 11. *Utilities.* No Street Trees other than those species listed as Street Trees in Section 7 of this ordinance may be planted under or within 10 lateral feet of any overhead utility wire, or over or within 5 lateral feet of any underground water line, sewer line, transmission line or other utility.

Section 12. *Public Tree Care.* The City shall have the right to plant, prune, maintain, and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares, and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds. The City Tree Board may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected with any injurious Trees by adjacent property owners providing that the selection and location of said trees is in accordance with Sections 7 through 11 of this ordinance.

Section 13. *Tree Topping.* It shall be unlawful as a normal practice for any person, firm or city department to top and Street Tree, Park Tree, or other tree on public property. Toppings is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this ordinance at the determination of the City Tree Board.

Section 14. *Pruning, Corner Clearance.* Every owner of any tree overhanging any street or right-of-way within the City shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of eight feet (8') above the surface of the street sidewalk. Said owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs, which constitute a menace to the safety of the public. The City shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light or interferes with the visibility of any traffic control device or sign.

Section 15. *Dead or Diseased Tree Removal on Private Property.* The City shall have the right to request the removal of any dead or diseased trees on private property within the city, when such trees constitute a hazard to life and property, or harbor insects or disease which constitute a potential threat to other trees within the city. The City Tree Board will notify in writing the owners of such trees. Removal shall be done by said owners at their expense within sixty days after the date of service of notice. In the event of failure of owners to comply with

such provisions, the City shall have the authority to remove such trees and charge the cost of removal on the owners property tax notice.

Section 16 *Removal of Stumps.* All stumps of Street and Park Trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

Section 17 *Interference with City Tree Board* It shall be unlawful for any person to prevent, delay or interfere with the City Tree Board, or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any trees on private grounds, as authorized in this ordinance.

Section 18 *Arborists License and Bond* It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating, or removing street or park trees within the City without first applying for and procuring a license. The license shall be \$25 annually, in advance, provided however, that no license shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amount of \$50,000 for bodily injury and \$100,000 property damage indemnifying the City or any person injured or damaged resulting from the pursuit of such endeavors as herein described.

Section 19 *Review for City Council* The City Council shall have the right to review the conduct, acts and decisions of the City Tree Board. Any person may appeal from any ruling or order of the City Tree Board to the City Council who may hear the matter and make final decision.

Section 20 *Penalty* Any person violating any provision of this ordinance shall be, upon conviction or a plea of guilty, subject to a fine not to exceed \$50.

Section 21 This ordinance being necessary for the immediate protection of the public peace, health, and safety an emergency is hereby declared to exist and this ordinance shall be in full force and effect from and after its passage and approval.

PASSED:____April 2, 1997_____

APPROVED:_____

Mayor Clark Hall
City of Marvell

ATTEST:_____

Marilyn Rowland
Recorder/Treasurer
City of Marvell